IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7681 OF 2007

National Organic Chemical
Industries Ltd. ..Petitioner

Vs.

The Regional Provident Fund
Commissioner-II ..Respondent

Mr. K.M. Naik with Mr. S.P. Salkar for petitioner.
Mr. Suresh Kumar for respondent.

CORAM: B.H. MARLAPALLE, J.

Date : November 19, 2007.

P.C.:

1. The petitioner - Company has suffered an order under Section 14-B read with Section 7-Q of the Employees Provident Fund and Misc. Provisions Act, 1952 and the said orders are under challenge in an appeal filed under Section 7-I of the said Act. It has also contended that along with the said appeal, which is registered as Appeal No.672(9) of 2007 the Company has filed an application under Section 7-O of the Act for waiver or for reduction of the deposit

amount. However, the said application could not be heard due to certain natural calamities / accidental fire and in the meanwhile the respondent issued a notice to the HDFC Bank which was communicated by the Bank to the petitioner-company vide its letter dated 26/9/2007.

2. On 16/10/2007 this court directed that the amount of Rs.97,29,728/- which is in Account No.0011110000930 with HDFC Bank shall not be utilised by the petitioner till the disposal of interim application filed by the petitioner in the pending appeal and by the subsequent order dated 17/10/2007 the respondent was directed not to take any coercive measures pending further orders.

3. Mr.Suresh Kumar the learned counsel appearing for the respondent has pointed out that the order under challenge in the pending appeal is under Section 14-B as well as Section 7-Q of the Act and the order under Section 7-Q is not an appealable order. The said order dated 25/7/2007 indicates that the recovery under Section 14-B of the Act is for the tune of

Rs.72,80,218/- and under Section 7-Q the amount is Rs.24,49,510/- and, therefore, as per Mr.Suresh Kumar the application for waiver or reduction of deposit will have to be considered only in respect of the order passed under Section 14-B of the Act. Obviously, the Lower Appellate Authority i.e. Appellate Tribunal before whom the application is pending will address to all these issues and will take appropriate steps to dispose off the pending application under Section 7-O of the Act.

4. Hence, it is directed that the amount of Rs.97,29,728/- presently lying in Account No.0011110000930 with the HDFC Bank shall not be utilised by the petitioner-company till the disposal of the interim application filed in the pending appeal and no coercive measures shall be taken by the respondent till the said application is heard and decided on its own merits by the Appellate Tribunal. The said application to be heard expeditiously.

5. Petition is disposed off accordingly.

(B.H. Marlapalle,J.)